

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Armin Prasch et al.

Application No.: 10/089,663

Confirmation No.: 6944

Filed: July 10, 2002

Art Unit: 1618

For: **Biodegradable Excipient Systems
for Therapeutically Active
Substances and Method for
Producing the Same**

Examiner: H. S. Ahmed

RESPONSE TO NOTICE OF NON-COMPLIANT AMENDMENT

MS Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This submission is in response to the Notice of Non-Compliant Amendment mailed on December 10, 2008. In the Notice, the Examiner deemed the applicants' response of August 26, 2008 not fully responsive for failure to include substantive arguments or Terminal Disclaimer in response to the double patenting rejection.

In the Office Action mailed on February 26, 2008, claims 18-25, 28-31, and 34 have been rejected on the ground of non-statutory obviousness-type double patenting as being unpatentable over claims 1-4 and 13 of the U.S. Patent No. 6,596,318 ('318 patent). The Examiner contends that, although the conflicting claims are not identical, they are not patentably distinct from each other, because the '318 patent claims a granulated blood plasma protein medicament formulation produced by fluidized bed drying. The Examiner concludes that, although the '318 patent does not claim an

active ingredient, the use of active ingredients was known in the art at the time of the present invention.

In order to expedite the prosecution and without admitting the correctness of the double patenting rejection, **applicants herein submit a Terminal Disclaimer with the required fees.**

In view of this submission, the double patenting rejection is believed to be overcome. Applicants respectfully submit that the pending claims are now in condition for allowance and such action is earnestly solicited. If the Examiner believes that a telephone conversation would help advance the prosecution in this case, the Examiner is respectfully requested to call the undersigned attorney at (212) 527-7634. The Examiner is hereby authorized to charge any additional fees associated with this response to our Deposit Account No. 04-0100.

Dated: December 19, 2008

Respectfully submitted,

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